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The intention of this document is to provide a concise overview of the general legal basis for cross-border judicial videoconferencing in the European Union. Rules for specific legal acts (e.g. Small Claims, European Account Preservation Order) may apply additionally. Furthermore, the document does not consider other international conventions (e.g. MLA).

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Legal Basis for Videoconferencing in the EU

Criminal Matters
Civil & Commercial Matters



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Legal Basis for Videoconferencing in the EU

Criminal Matters



European Investigation Order

Art 24 Directive 2014/41/EU
<http://data.europa.eu/eli/dir/2014/41>

WHEN?

- Hearing for the purpose of taking evidence.
- In the pre-trial and trial stage.

WHO?

- Witnesses, Experts, Suspects, Accused.

CONDITIONS?

- Necessary and proportionate.
- Possible in a similar domestic case.
- Consent of the suspect / accused.

HOW?

- Issuing authority requests, on its own motion or upon request of suspect/accused.
- Authorities agree on practical arrangements.
- Executing authority summons person and if necessary, interpreter & checks identity.
- Issuing authority conducts hearing.

LEGAL ASPECTS?

- Law of the issuing state applies, but: Procedural rights (including right not to testify) under laws of both MS.



Digitalisation Regulation

Art 6 Regulation 2023/2844
<http://data.europa.eu/eli/reg/2023/2844>

- Hearing for certain judicial cooperation procedures: EAW, FD Custodial sentences, etc.

- Suspects, accused or convicted persons; affected persons.

- Particular circumstances of the case justify the use of VC.
- Consent of the person (except serious public security/health risk).

- Requesting competent authority (MS A) requests hearing and Requested competent authority allows VC (MS B).
- Authorities agree on practical arrangements.
- Requested competent authority (MS B) shall ensure access to VC infrastructure.

- Law of the requesting state applies.
- Regulation foresees Procedural rights, in particular access to lawyer & confidentiality.

Civil & Commercial Matters



Taking of evidence

Art 12/4 & 19, 20 Regulation 2020/1783
<http://data.europa.eu/eli/reg/2020/1783>

- Hearing for the purpose of taking evidence.

- Witnesses, Experts, Parties, etc.

- Assistance: not incompatible with law & no major practical difficulties.
- Direct VC: Only voluntary, no coercive.

- Two options: Request assistance from other MS (Form A) or request direct VC (Form L).
- Direct VC: Request counts as accepted if central/competent authority does not object within 30 days +15 days after reminder.
- Authorities agree on practical arrangements (Form N).

- Law of the requesting state applies, except for: Conditions required by requested MS.
- Refusal to testify under laws of both MS.



Digitalisation Regulation

Art 5 Regulation 2023/2844
<http://data.europa.eu/eli/reg/2023/2844>

- Other hearings (not for evidence) in all civil & commercial matters.

- Parties, representatives & assistants.

- Appropriate to use VC under specific circumstances of the case.
- Opinion of the parties required.

- Party or representative present in another MS.
- Request of a party or own motion of the competent authority.
- Competent authority decides.
- Competent authority conducts VC directly.
- No involvement of other MS.

- Law of the conducting state applies.